

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

ESTATE OF THOMAS KIRBY and
BRENDA KIRBY,

Plaintiff,

v.

DEPUTY DUVA, DEPUTY CARRIER,
SERGEANT BUCKLEY, LIEUTENANT
MUXLOW, COUNTY OF ST. CLAIR,
Individually and jointly and severally,

Defendants.

Case No. 05cv-71884

Honorable Robert H. Cleland

Magistrate Judge R. Steven Whalen

**ORDER APPROVING THE WRONGFUL DEATH SETTLEMENT AGREEMENT,
ATTORNEY FEES AND COSTS AND DISTRIBUTION**

This matter having come before the court upon the motion by Sharon Winfield, Personal Representative of the Estate of Thomas Kirby, by and through her counsel, Patrick McQueeney, Hugh M. Davis and Daniel Henry and the court being otherwise satisfied in the premises, now therefore;

IT IS HEREBY ORDERED that:

A. Settlement in the amount of \$900,000.00 is approved;

B. Reimbursement to the attorneys and Personal Representative of

expenses incurred in this litigation in the amount of \$104,885.10, as follows:

Expenses - CLA/Hugh M. Davis	\$ 847.59
Expenses - Daniel Henry	\$ 3,496.00
Expenses - Patrick McQueeney	\$ 4,110.21
Expenses - Thomas R. Present	\$ 0.00
Expenses - Dr. Thomas Mervak	\$ 1,050.00

Expenses advanced by Sharon Winfield (P.R.)
\$95,381.30

C. Payment to Plaintiffs' attorneys in the amount of \$265,038.30 to be divided
as follows, is approved:

Patrick McQueeney	\$ 90,113.02
Hugh Davis/C.L.A.	\$ 42,406.13
Thomas R. Present	\$ 75,138.36
Daniel Henry	\$ 53,835.29
Bert Ross	\$ 3,445.50

D. Payment of funeral and burial expenses and medical expenses incurred
as a result of the incident giving rise to this lawsuit in the amount of \$9,000, and should
be paid to Sharon Winfield.

E. The court finds that the Personal Representative of the Estate of Thomas
Kirby and her counsel have notified all potential claimants under the Michigan Wrongful
Death Act of their right to claim a share of the settlement proceeds.

F. There are no other expenses payable from the proceeds pursuant to the
Wrongful Death Act.

G. The Personal Representative of the Estate and the family members
entitled to take under the Wrongful Death Statute have agreed to the following
distribution of the clients share of the proceeds (\$521,076.60 as follows:)

Brenda Kirby	\$ 164,358.90
Paige Glod	\$ 164,358.90
June Kirby	\$ 21,000.00
Sharon Winfield	\$ 171, 358.90

H. The court finds that the distributions to the family members as set forth herein are based on their respective losses of society and companionship of the decedent and not upon loss of support from the decedent.

I. Defendants shall tender the settlement check to counsel Constitutional Litigation Associates, P.C. upon entry of this order. Constitutional Litigation Associates, P.C. shall disburse the funds as ordered by this court, except that no funds shall be distributed for Thomas R. Present's share of the attorneys fee until Constitutional Litigation Associates, P.C. receives written notice of satisfaction of the 2 lines filed herein as to Thomas R. Present's share of any recovery (Dkt. Nos. 66 & 68.), or upon the order of a court having jurisdiction with regard to both lienholders claims.

S/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: May 20, 2009

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, May 20, 2009, by electronic and/or ordinary mail.

S/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522